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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,308	02/06/2004	Nobuhiko Noma	P24207	7414
7055 7590 01/30/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER YUN, EUGENE				
ART UNIT 2618		PAPER NUMBER		
NOTIFICATION DATE 01/30/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 3, 4, 7, and 8 in the reply filed on 5/30/2008 is acknowledged.

Claim 9 is still pending in the application even though it is currently withdrawn from consideration.

### ***Response to Arguments***

2. Applicant's arguments filed 12/17/2008 have been fully considered but they are not persuasive.

The applicant argues that the Warke reference does not teach a communication apparatus further arguing that Warke only teaches line diagnosis for wireline modems. The examiner disagrees and states that a modem is clearly a communication apparatus. The claims do not state anything about a wireless communication apparatus or anything wireless at all. Therefore, a wireline modem can clearly be construed as a communication apparatus.

The applicant argues that Warke does not teach "a communication unit that communicates by concentrating signal energy into a low frequency band, the signal energy being assigned to a transmission signal according to the communication distance estimated by said estimation unit". The examiner disagrees because firstly, the applicant's arguments discuss in detail the Warke reference and then simply concludes that the Warke reference does not teach the applicant's invention without giving

sufficient detail as to how the Warke reference differs from the independent claims as currently written. Therefore, the examiner can point to the lower frequencies of fig. 5 and then point to the differing transmission line lengths and their signal responses to read on the above limitation. As a matter of fact, the examiner believes that fig. 5 of Warke shows similarities as fig. 12 of the claimed invention. While the examiner may understand the applicant's arguments, the examiner believes that more detail is needed to the claim limitations as the Warke reference still reads on the claim limitations as currently written.

The applicant argues that Warke does not teach estimating a "communication distance to an opposing ASDL modem apparatus". The examiner disagrees. The applicant argues that the Warke reference teaches the distance between a central office and an end user which is different from an ASDL modem and an opposing ASDL modem. That is incorrect. Col. 5, lines 6-8 shows that the central office does indeed have an ASDL modem and then the opposing ASDL modem is clearly shown in 230 of fig. 2 as well as the length between the two.

For the above reasons, the examiner still stands by his rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUGENE YUN whose telephone number is (571)272-7860. The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571)272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eugene Yun  
Examiner  
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